



DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-844]

Certain Steel Nails from Thailand: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain steel nails (steel nails) from Thailand are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2020, through September 30, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Matthew Palmer, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4243 or (202) 482-1678, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 26, 2022.¹ On May 20, 2022, Commerce postponed the preliminary determination of this investigation until July 28, 2022.² For a complete description of the events

¹ See *Certain Steel Nails from India, Sri Lanka, Thailand, and the Republic of Turkey: Initiation of Less-Than-Fair Value Investigations*, 87 FR 3965 (January 26, 2022) (*Initiation Notice*).

² See *Certain Steel Nails from India, Sri Lanka, Thailand, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair Value Investigations*, 87 FR 30868 (May 20, 2022).

that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The products covered by this investigation are steel nails from Thailand. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).⁵ Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation Notice*. On July 5, 2022, Commerce issued its preliminary determination regarding the scope of the investigation.⁶ For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum. Based on an analysis of the comments received, Commerce preliminarily determined to make no change to

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Steel Nails from Thailand," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ *See Initiation Notice*, 87 FR at 3966.

⁶ *See* Memorandum, "Antidumping Duty Investigations of Certain Steel Nails from India, Sri Lanka, Thailand, and Turkey and Countervailing Duty Investigations of Certain Steel Nails from India, Oman, Sri Lanka, Thailand, and Turkey: Preliminary Scope Decision Memorandum," dated July 5, 2022 (Preliminary Scope Decision Memorandum).

the scope language from the *Initiation Notice*, as reflected in Appendix I.⁷ Commerce established a separate briefing schedule for interested parties to address the preliminary scope determination.⁸

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Section 733(d)(1)(ii) of the Act provides that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. Pursuant to section 735(c)(5)(A) of the Act, this rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. In this investigation, Commerce assigned a rate based entirely on facts available to Jinhai Hardware Co., Ltd. (Jinhai). Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for Come Best Co., Ltd. (Come Best). Consequently, the rate calculated for Come Best is also assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

⁷ Though Commerce preliminarily determined to make no change to the language of the scope in response to interested parties' comments, we note that the scope language as listed in Appendix I omits a Harmonized Tariff Schedule of the United States (HTSUS) subheading (7318.15.5060) originally included in the scope language from the *Initiation Notice*, because Commerce determined that the HTSUS subheading does not exist. *Id.* at 15.

⁸ *Id.* at 4-5.

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)
Come Best (Thailand) Co. Ltd.	17.12 ⁹
Jinhai Hardware Co., Ltd.	65.87 ¹⁰
All Others	17.12 ¹¹

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

To determine the cash deposit rate, pursuant to section 772(c)(1)(C) of the Act, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. However, Commerce did not find countervailable export

⁹ See Memorandum, “Antidumping Duty Investigation of Certain Steel Nails from Thailand: Analysis of the Preliminary Determination Margin Calculations for Come Best Co., Ltd.,” dated concurrently with this notice.

¹⁰ See Preliminary Decision Memorandum at section VI., “Use of Facts Available with Adverse Inferences.”

¹¹ *Id.* at section VII., “All-Others Rate.”

subsidies in the preliminary determination of the companion CVD investigation.¹² Accordingly, we have not made any adjustment to offset for export subsidies. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose the calculations performed in connection with this preliminary determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance.¹³ Interested parties will be notified of the timeline for the submission of such case briefs and written comments at a later date. Rebuttal briefs may be submitted no later than seven days after the deadline for case briefs.¹⁴ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁵

¹² See *Certain Steel Nails from Thailand: Preliminary Negative Countervailing Duty Determination*, 87 FR 34651 (June 7, 2022), and accompanying Preliminary Decision Memorandum.

¹³ Case briefs, other written comments, and rebuttal briefs submitted by parties in response to this preliminary LTFV determination should not include scope-related issues. The scope case briefs deadline was July 19, 2022. See Preliminary Scope Decision Memorandum at 4.

¹⁴ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

¹⁵ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the *Federal Register*. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On July 6 and 11, 2022, pursuant to 19 CFR 351.210(e), Come Best and Jinhai Hardware, respectively, requested Commerce to postpone the final determination to the maximum of 135 days after the date of the publication of the preliminary determination, and to extend provisional measures to a period not to exceed six months, in the event that Commerce issued an affirmative preliminary antidumping determination in this proceeding.¹⁶ On July 14, 2022, Mid Continent

¹⁶ See Come Best's Letter, "Certain Steel Nails from Thailand; Request to Extend Final Determination," dated July 6, 2022; see also Jinhai Hardware's Letter, "Certain Steel Nails from Thailand: Request to Postpone the Final Determination of the Investigation," dated July 11, 2022.

Steel & Wire, Inc. (the petitioner) similarly requested that Commerce postpone the final determination for a period not to exceed 135 days after the date of the publication of the preliminary determination in this proceeding, in the event that it issued a negative preliminary determination.¹⁷ The petitioner stated further that it supports the respondents' requests to extend any provisional measures from a four-month period not to exceed a six-month period in the investigation, should Commerce reach an affirmative preliminary determination and should the deadline for a final determination be fully extended.¹⁸

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of steel nails from Thailand are materially injuring, or threaten material injury to, the U.S. industry.

¹⁷ See Petitioner's Letter, "Certain Steel Nails from India, Sri Lanka and Thailand – Petitioner's Request for Postponement Final Determination," dated July 14, 2022.

¹⁸ *Id.*

Notification to Interested Parties

This preliminary determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: July 28, 2022.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is certain steel nails having a nominal shaft or shank length not exceeding 12 inches. Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel or long-rolled flat steel bars. Certain steel nails may be of one piece construction or constructed of two or more pieces. Examples of nails constructed of two or more pieces include, but are not limited to, anchors comprised of an anchor body made of zinc or nylon and a steel pin or a steel nail; crimp drive anchors; split-drive anchors, and strike pin anchors. Also included in the scope are anchors of one piece construction.

Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank or shaft styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted.

Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material.

Excluded from the scope are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25, unless otherwise excluded based on the other exclusions below.

Also excluded from the scope are certain steel nails with a nominal shaft or shank length of one inch or less that are a component of an unassembled article, where the total number of nails is sixty (60) or less, and the imported unassembled article falls into one of the following eight groupings: (1) Builders' joinery and carpentry of wood that are classifiable as windows, Frenchwindows and their frames; (2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; (3) swivel seats with variable height adjustment; (4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); (5) seats of cane, osier, bamboo or similar materials; (6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); (7) furniture (other than seats) of wood (with the exception of (i) medical, surgical, dental or veterinary furniture; and (ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or (8) furniture (other than seats) of materials other than wood, metal, or plastics (*e.g.*, furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81 or 9403.89.

Also excluded from the scope of this investigation are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.2000 and 7317.00.3000.

Also excluded from the scope of this investigation are nails suitable for use in gas-actuated hand tools. These nails have a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point.

Also excluded from the scope of this investigation are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of this investigation are thumb tacks, which are currently classified under HTSUS subheading 7317.00.1000.

Also excluded from the scope are decorative or upholstery tacks.

Certain steel nails subject to this investigation are currently classified under HTSUS subheadings 7317.00.5501, 7317.00.5502, 7317.00.5503, 7317.00.5505, 7317.00.5507, 7317.00.5508, 7317.00.5511, 7317.00.5518, 7317.00.5519, 7317.00.5520, 7317.00.5530, 7317.00.5540, 7317.00.5550, 7317.00.5560, 7317.00.5570, 7317.00.5580, 7317.00.5590, 7317.00.6530, 7317.00.6560, and 7317.00.7500. Certain steel nails subject to this investigation also may be classified under HTSUS subheadings 7318.15.5090, 7907.00.6000, 8206.00.0000, or other HTSUS subheadings. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Affiliation
- V. Use of Facts Available with Adverse Inferences
- VI. Discussion of the Methodology
- VII. Currency Conversion
- VIII. Recommendation

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